

that the person so ordered by the court accords the party with respect to whom the installation and use is to take place, if such assistance is directed by a court order as provided in section 3123(b)(2) of this title.

(b) Trap and trace device

Upon the request of an attorney for the Government or an officer of a law enforcement agency authorized to receive the results of a trap and trace device under this chapter, a provider of a wire or electronic communication service, landlord, custodian, or other person shall install such device forthwith on the appropriate line and shall furnish such investigative or law enforcement officer all additional information, facilities and technical assistance including installation and operation of the device unobtrusively and with a minimum of interference with the services that the person so ordered by the court accords the party with respect to whom the installation and use is to take place, if such installation and assistance is directed by a court order as provided in section 3123(b)(2) of this title. Unless otherwise ordered by the court, the results of the trap and trace device shall be furnished to the officer of a law enforcement agency, designated in the court,² at reasonable intervals during regular business hours for the duration of the order.

(c) Compensation

A provider of a wire or electronic communication service, landlord, custodian, or other person who furnishes facilities or technical assistance pursuant to this section shall be reasonably compensated for such reasonable expenses incurred in providing such facilities and assistance.

(d) No cause of action against a provider disclosing information under this chapter

No cause of action shall lie in any court against any provider of a wire or electronic communication service, its officers, employees, agents, or other specified persons for providing information, facilities, or assistance in accordance with the terms of a court order under this chapter.

(e) Defense

A good faith reliance on a court order, a legislative authorization, or a statutory authorization is a complete defense against any civil or criminal action brought under this chapter or any other law.

(Added Pub. L. 99-508, title III, § 301(a), Oct. 21, 1986, 100 Stat. 1870.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3123 of this title.

§ 3125. Reports concerning pen registers and trap and trace devices

The Attorney General shall annually report to Congress on the number of pen register orders and orders for trap and trace devices applied for by law enforcement agencies of the Department of Justice.

²So in original. Probably should be "court order."

(Added Pub. L. 99-508, title III, § 301(a), Oct. 21, 1986, 100 Stat. 1871.)

§ 3126. Definitions for chapter

As used in this chapter—

(1) the terms "wire communication", "electronic communication", and "electronic communication service" have the meanings set forth for such terms in section 2510 of this title;

(2) the term "court of competent jurisdiction" means—

(A) a district court of the United States (including a magistrate of such a court) or a United States Court of Appeals; or

(B) a court of general criminal jurisdiction of a State authorized by the law of that State to enter orders authorizing the use of a pen register or a trap and trace device;

(3) the term "pen register" means a device which records or decodes electronic or other impulses which identify the numbers dialed or otherwise transmitted on the telephone line to which such device is attached, but such term does not include any device used by a provider or customer of a wire or electronic communication service for billing, or recording as an incident to billing, for communications services provided by such provider or any device used by a provider or customer of a wire communication service for cost accounting or other like purposes in the ordinary course of its business;

(4) the term "trap and trace device" means a device which captures the incoming electronic or other impulses which identify the originating number of an instrument or device from which a wire or electronic communication was transmitted;

(5) the term "attorney for the Government" has the meaning given such term for the purposes of the Federal Rules of Criminal Procedure; and

(6) the term "State" means a State, the District of Columbia, Puerto Rico, and any other possession or territory of the United States.

(Added Pub. L. 99-508, title III, § 301(a), Oct. 21, 1986, 100 Stat. 1871.)

REFERENCES IN TEXT

The Federal Rules of Criminal Procedure, referred to in par. (5), are set out in the Appendix to this title.

**CHAPTER 207—RELEASE AND DETENTION
PENDING JUDICIAL PROCEEDINGS**

Sec.	
3141.	Release and detention authority generally.
3142.	Release or detention of a defendant pending trial.
3143.	Release or detention of a defendant pending sentence or appeal.
3144.	Release or detention of a material witness.
3145.	Review and appeal of a release or detention order.
3146.	Penalty for failure to appear.
3147.	Penalty for an offense committed while on release.
3148.	Sanctions for violation of a release condition.
3149.	Surrender of an offender by a surety.

Sec.
3150. Applicability to a case removed from a State court.
[3150a, 3151. Repealed.]

AMENDMENTS

1984—Pub. L. 98-473, title II, § 203(e), Oct. 12, 1984, 98 Stat. 1985, inserted "AND DETENTION PENDING JUDICIAL PROCEEDING" in chapter heading, added new items 3141 to 3150, and struck out former items 3141 to 3151 as follows: item 3141 "Power of courts and magistrates", item 3142 "Surrender by bail", item 3143 "Additional bail", item 3144 "Cases removed from State courts", item 3145 "Parties and witnesses—Rule", item 3146 "Release in noncapital cases prior to trial", item 3147 "Appeal from conditions of release", item 3148 "Release in capital cases or after conviction", item 3149 "Release of material witnesses", item 3150 "Penalties for failure to appear", item 3150a "Refund of forfeited bail", item 3151 "Contempt".

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 3041, 3062, 4241, 4282, 4285, 5037 of this title.

§ 3141. Release and detention authority generally

(a) Pending trial

A judicial officer authorized to order the arrest of a person under section 3041 of this title before whom an arrested person is brought shall order that such person be released or detained, pending judicial proceedings, under this chapter.

(b) Pending sentence or appeal

A judicial officer of a court of original jurisdiction over an offense, or a judicial officer of a Federal appellate court, shall order that, pending imposition or execution of sentence, or pending appeal of conviction or sentence, a person be released or detained under this chapter.

(Added Pub. L. 98-473, title II, § 203(a), Oct. 12, 1984, 98 Stat. 1976, and amended Pub. L. 99-646, § 55(a), (b), Nov. 10, 1986, 100 Stat. 3607.)

PRIOR PROVISIONS

A prior section 3141, acts June 25, 1948, ch. 645, 62 Stat. 821; June 22, 1966, Pub. L. 89-465, § 5(b), 80 Stat. 217, which related to powers of courts and magistrates with respect to release on bail or otherwise, was repealed in the revision of this chapter by section 203(a) of Pub. L. 98-473.

AMENDMENTS

1986—Subsec. (a). Pub. L. 99-646, § 55(a), (b), substituted "authorized to order the arrest of a person under section 3041 of this title before whom an arrested person is brought shall order that such person be released" for "who is authorized to order the arrest of a person pursuant to section 3041 of this title shall order that an arrested person who is brought before him be released" and "under this chapter" for "pursuant to the provisions of this chapter".

Subsec. (b). Pub. L. 99-646, § 55(a), substituted "under this chapter" for "pursuant to the provisions of this chapter".

EFFECTIVE DATE OF 1986 AMENDMENT

Section 55(j) of Pub. L. 99-646 provided that: "The amendments made by this section [amending sections 3141 to 3144, 3146 to 3148, and 3156 of this title] shall take effect 30 days after the date of enactment of this Act [Nov. 10, 1986]."

SHORT TITLE OF 1984 AMENDMENT

Section 202 of chapter I (§§ 202-210) of title II of Pub. L. 98-473 provided that: "This chapter [enacting sections 3062 and 3141 to 3150 of this title, amending sections 3041, 3042, 3154, 3156, 3731, 3772, and 4282 of this title and section 636 of Title 28, Judiciary and Judicial Procedure, repealing sections 3043 and 3141 to 3151 of this title, and amending rules 5, 15, 40, 46, and 54 of the Federal Rules of Criminal Procedure, set out in the Appendix to this title, and rule 9 of the Federal Rules of Appellate Procedure, set out in the Appendix to Title 28] may be cited as the 'Bail Reform Act of 1984'."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3156 of this title.

§ 3142. Release or detention of a defendant pending trial

(a) In general

Upon the appearance before a judicial officer of a person charged with an offense, the judicial officer shall issue an order that, pending trial, the person be—

(1) released on personal recognizance or upon execution of an unsecured appearance bond, under subsection (b) of this section;

(2) released on a condition or combination of conditions under subsection (c) of this section;

(3) temporarily detained to permit revocation of conditional release, deportation, or exclusion under subsection (d) of this section; or

(4) detained under subsection (e) of this section.

(b) Release on personal recognizance or unsecured appearance bond

The judicial officer shall order the pretrial release of the person on personal recognizance, or upon execution of an unsecured appearance bond in an amount specified by the court, subject to the condition that the person not commit a Federal, State, or local crime during the period of release, unless the judicial officer determines that such release will not reasonably assure the appearance of the person as required or will endanger the safety of any other person or the community.

(c) Release on conditions

(1) If the judicial officer determines that the release described in subsection (b) of this section will not reasonably assure the appearance of the person as required or will endanger the safety of any other person or the community, such judicial officer shall order the pretrial release of the person—

(A) subject to the condition that the person not commit a Federal, State, or local crime during the period of release; and

(B) subject to the least restrictive further condition, or combination of conditions, that such judicial officer determines will reasonably assure the appearance of the person as required and the safety of any other person and the community, which may include the condition that the person—

(i) remain in the custody of a designated person, who agrees to assume supervision

and to report any violation of a release condition to the court, if the designated person is able reasonably to assure the judicial officer that the person will appear as required and will not pose a danger to the safety of any other person or the community;

(ii) maintain employment, or, if unemployed, actively seek employment;

(iii) maintain or commence an educational program;

(iv) abide by specified restrictions on personal associations, place of abode, or travel;

(v) avoid all contact with an alleged victim of the crime and with a potential witness who may testify concerning the offense;

(vi) report on a regular basis to a designated law enforcement agency, pretrial services agency, or other agency;

(vii) comply with a specified curfew;

(viii) refrain from possessing a firearm, destructive device, or other dangerous weapon;

(ix) refrain from excessive use of alcohol, or any use of a narcotic drug or other controlled substance, as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802), without a prescription by a licensed medical practitioner;

(x) undergo available medical, psychological, or psychiatric treatment, including treatment for drug or alcohol dependency, and remain in a specified institution if required for that purpose;

(xi) execute an agreement to forfeit upon failing to appear as required, such designated property, including money, as is reasonably necessary to assure the appearance of the person as required, and post with the court such indicia of ownership of the property or such percentage of the money as the judicial officer may specify;

(xii) execute a bail bond with solvent sureties in such amount as is reasonably necessary to assure the appearance of the person as required;

(xiii) return to custody for specified hours following release for employment, schooling, or other limited purposes; and

(xiv) satisfy any other condition that is reasonably necessary to assure the appearance of the person as required and to assure the safety of any other person and the community.

(2) The judicial officer may not impose a financial condition that results in the pretrial detention of the person.

(3) The judicial officer may at any time amend order ¹ to impose additional or different conditions of release.

(d) Temporary detention to permit revocation of conditional release, deportation, or exclusion

If the judicial officer determines that—

(1) such person—

(A) is, and was at the time the offense was committed, on—

(i) release pending trial for a felony under Federal, State, or local law;

(ii) release pending imposition or execution of sentence, appeal of sentence or conviction, or completion of sentence, for any offense under Federal, State, or local law; or

(iii) probation or parole for any offense under Federal, State, or local law; or

(B) is not a citizen of the United States or lawfully admitted for permanent residence, as defined in section 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(20)); and

(2) such person may flee or pose a danger to any other person or the community;

such judicial officer shall order the detention of such person, for a period of not more than ten days, excluding Saturdays, Sundays, and holidays, and direct the attorney for the Government to notify the appropriate court, probation or parole official, or State or local law enforcement official, or the appropriate official of the Immigration and Naturalization Service. If the official fails or declines to take such person into custody during that period, such person shall be treated in accordance with the other provisions of this section, notwithstanding the applicability of other provisions of law governing release pending trial or deportation or exclusion proceedings. If temporary detention is sought under paragraph (1)(B) of this subsection, such person has the burden of proving to the court such person's United States citizenship or lawful admission for permanent residence.

(e) Detention

If, after a hearing pursuant to the provisions of subsection (f) of this section, the judicial officer finds that no condition or combination of conditions will reasonably assure the appearance of the person as required and the safety of any other person and the community, such judicial officer shall order the detention of the person before trial. In a case described in subsection (f)(1) of this section, a rebuttable presumption arises that no condition or combination of conditions will reasonably assure the safety of any other person and the community if such judicial officer finds that—

(1) the person has been convicted of a Federal offense that is described in subsection (f)(1) of this section, or of a State or local offense that would have been an offense described in subsection (f)(1) of this section if a circumstance giving rise to Federal jurisdiction had existed;

(2) the offense described in paragraph (1) of this subsection was committed while the person was on release pending trial for a Federal, State, or local offense; and

(3) a period of not more than five years has elapsed since the date of conviction, or the release of the person from imprisonment, for the offense described in paragraph (1) of this subsection, whichever is later.

Subject to rebuttal by the person, it shall be presumed that no condition or combination of conditions will reasonably assure the appearance of the person as required and the safety of

¹So in original. Probably should be "the order".

the community if the judicial officer finds that there is probable cause to believe that the person committed an offense for which a maximum term of imprisonment of ten years or more is prescribed in the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), section 1 of the Act of September 15, 1980 (21 U.S.C. 955a),² or an offense under section 924(c) of title 18 of the United States Code.

(f) Detention hearing

The judicial officer shall hold a hearing to determine whether any condition or combination of conditions set forth in subsection (c) of this section will reasonably assure the appearance of such person as required and the safety of any other person and the community—

(1) upon motion of the attorney for the Government, in a case that involves—

(A) a crime of violence;

(B) an offense for which the maximum sentence is life imprisonment or death;

(C) an offense for which a maximum term of imprisonment of ten years or more is prescribed in the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or section 1 of the Act of September 15, 1980 (21 U.S.C. 955a);² or

(D) any felony if such person has been convicted of two or more offenses described in subparagraphs (A) through (C) of this paragraph, or two or more State or local offenses that would have been offenses described in subparagraphs (A) through (C) of this paragraph if a circumstance giving rise to Federal jurisdiction had existed, or a combination of such offenses; or

(2) upon motion of the attorney for the Government or upon the judicial officer's own motion in a case, that involves—

(A) a serious risk that such person will flee; or

(B) a serious risk that such person will obstruct or attempt to obstruct justice, or threaten, injure, or intimidate, or attempt to threaten, injure, or intimidate, a prospective witness or juror.

The hearing shall be held immediately upon the person's first appearance before the judicial officer unless that person, or the attorney for the Government, seeks a continuance. Except for good cause, a continuance on motion of such person may not exceed five days, and a continuance on motion of the attorney for the Government may not exceed three days. During a continuance, such person shall be detained, and the judicial officer, on motion of the attorney for the Government or sua sponte, may order that, while in custody, a person who appears to be a narcotics addict receive a medical examination to determine whether such person is an addict. At the hearing, such person has the right to be represented by counsel, and, if financially unable to obtain adequate representation, to have counsel appointed. The person shall be afforded an opportunity to tes-

tify, to present witnesses, to cross-examine witnesses who appear at the hearing, and to present information by proffer or otherwise. The rules concerning admissibility of evidence in criminal trials do not apply to the presentation and consideration of information at the hearing. The facts the judicial officer uses to support a finding pursuant to subsection (e) that no condition or combination of conditions will reasonably assure the safety of any other person and the community shall be supported by clear and convincing evidence. The person may be detained pending completion of the hearing. The hearing may be reopened, before or after a determination by the judicial officer, at any time before trial if the judicial officer finds that information exists that was not known to the movant at the time of the hearing and that has a material bearing on the issue whether there are conditions of release that will reasonably assure the appearance of such person as required and the safety of any other person and the community.

(g) Factors to be considered

The judicial officer shall, in determining whether there are conditions of release that will reasonably assure the appearance of the person as required and the safety of any other person and the community, take into account the available information concerning—

(1) the nature and circumstances of the offense charged, including whether the offense is a crime of violence or involves a narcotic drug;

(2) the weight of the evidence against the person;

(3) the history and characteristics of the person, including—

(A) the person's character, physical and mental condition, family ties, employment, financial resources, length of residence in the community, community ties, past conduct, history relating to drug or alcohol abuse, criminal history, and record concerning appearance at court proceedings; and

(B) whether, at the time of the current offense or arrest, the person was on probation, on parole, or on other release pending trial, sentencing, appeal, or completion of sentence for an offense under Federal, State, or local law; and

(4) the nature and seriousness of the danger to any person or the community that would be posed by the person's release. In considering the conditions of release described in subsection (c)(2)(K) or (c)(2)(L) of this section, the judicial officer may upon his own motion, or shall upon the motion of the Government, conduct an inquiry into the source of the property to be designated for potential forfeiture or offered as collateral to secure a bond, and shall decline to accept the designation, or the use as collateral, of property that, because of its source, will not reasonably assure the appearance of the person as required.

²See References in Text note below.

(h) Contents of release order

In a release order issued under subsection (b) or (c) of this section, the judicial officer shall—

(1) include a written statement that sets forth all the conditions to which the release is subject, in a manner sufficiently clear and specific to serve as a guide for the person's conduct; and

(2) advise the person of—

(A) the penalties for violating a condition of release, including the penalties for committing an offense while on pretrial release;

(B) the consequences of violating a condition of release, including the immediate issuance of a warrant for the person's arrest; and

(C) sections 1503 of this title (relating to intimidation of witnesses, jurors, and officers of the court), 1510 (relating to obstruction of criminal investigations), 1512 (tampering with a witness, victim, or an informant), and 1513 (retaliating against a witness, victim, or an informant).

(i) Contents of detention order

In a detention order issued under subsection (e) of this section, the judicial officer shall—

(1) include written findings of fact and a written statement of the reasons for the detention;

(2) direct that the person be committed to the custody of the Attorney General for confinement in a corrections facility separate, to the extent practicable, from persons awaiting or serving sentences or being held in custody pending appeal;

(3) direct that the person be afforded reasonable opportunity for private consultation with counsel; and

(4) direct that, on order of a court of the United States or on request of an attorney for the Government, the person in charge of the corrections facility in which the person is confined deliver the person to a United States marshal for the purpose of an appearance in connection with a court proceeding.

The judicial officer may, by subsequent order, permit the temporary release of the person, in the custody of a United States marshal or another appropriate person, to the extent that the judicial officer determines such release to be necessary for preparation of the person's defense or for another compelling reason.

(j) Presumption of innocence

Nothing in this section shall be construed as modifying or limiting the presumption of innocence.

(Added Pub. L. 98-473, title II, § 203(a), Oct. 12, 1984, 98 Stat. 1976, and amended Pub. L. 99-646, §§ 55(a), (c), 72, Nov. 10, 1986, 100 Stat. 3607, 3617.)

REFERENCES IN TEXT

The Controlled Substances Act, referred to in subsecs. (e) and (f)(1)(C), is title II of Pub. L. 91-513, Oct. 27, 1970, 84 Stat. 1242, as amended, which is classified principally to subchapter I (§ 801 et seq.) of chapter 13 of Title 21, Food and Drugs. For complete classification of this Act to the Code, see Short Title note set out under section 801 of Title 21 and Tables.

The Controlled Substances Import and Export Act, referred to in subsecs. (e) and (f)(1)(C), is title III of Pub. L. 91-513, Oct. 27, 1970, 84 Stat. 1285, as amended, which is classified principally to subchapter II (§ 951 et seq.) of chapter 13 of Title 21. For complete classification of this Act to the Code, see Short Title note set out under section 951 of Title 21 and Tables.

Section 1 of the Act of September 15, 1980, referred to in subsecs. (e) and (f)(1)(C), was classified to section 955a of Title 21, prior to the general amendment of Act September 15, 1980, by Pub. L. 99-570, title III, § 3202, Oct. 27, 1986, 100 Stat. 3207-95, and Pub. L. 99-640, § 17, Nov. 10, 1986, 100 Stat. 3552, which restated the provisions of former section 1 of Act September 15, 1980, in the new section 3 of Act September 15, 1980, which is classified to section 1903 of Title 46, Appendix, Shipping. For complete classification of this Act to the Code, see section 1901 of Title 46, Appendix, and Tables.

PRIOR PROVISIONS

A prior section 3142, acts June 25, 1948, ch. 645, 62 Stat. 821; June 22, 1966, Pub. L. 89-465, § 5(c), 80 Stat. 217, which set forth provisions relating to surrender by bail, was repealed in the revision of this chapter by section 203(a) of Pub. L. 98-473.

AMENDMENTS

1986—Subsec. (a). Pub. L. 99-646, § 55(a), (c)(1), in par. (1) struck out "his" after "released on" and substituted "under subsection (b) of this section" for "pursuant to the provisions of subsection (b)", in par. (2) substituted "under subsection (c) of this section" for "pursuant to the provisions of subsection (c)", in par. (3) substituted "under subsection (d) of this section" for "pursuant to provisions of subsection (d)", and in par. (4) substituted "under subsection (e) of this section" for "pursuant to provisions of subsection (e)".

Subsec. (b). Pub. L. 99-646, § 55(c)(2), struck out "his" after "person on" and "period of".

Subsec. (c). Pub. L. 99-646, § 55(c)(3), designated existing provision as par. (1) and redesignated former pars. (1) and (2) as subpars. (A) and (B), in provision preceding subpar. (A) substituted "subsection (b) of this section" for "subsection (b)" and "such judicial officer" for "he", in subpar. (B) redesignated subpars. (A) to (N) as cls. (i) to (xiv), in provision preceding cl. (i) substituted "such judicial officer" for "he", in cl. (i) substituted "assume supervision" for "supervise him", in cl. (iv) substituted "on personal" for "on his personal", in cl. (x) substituted "medical, psychological," for "medical", designated provision relating to the judicial officer not imposing a financial condition that results in the pretrial detention of a person as par. (2), and designated provision permitting the judicial officer to impose at any time additional or different conditions of release as par. (3), and in par. (3) struck out "his" after "amend".

Subsec. (d). Pub. L. 99-646, § 55(c)(4), in pars. (1) and (2) substituted "such person" for "the person" and in concluding provisions substituted "such person" for "the person" in four places, "such judicial officer" for "he", "paragraph (1)(B) of this subsection" for "paragraph (1)(B)", and "such person's United States citizenship or lawful admission" for "that he is a citizen of the United States or is lawfully admitted".

Subsec. (e). Pub. L. 99-646, § 55(c)(5), in introductory provisions inserted "of this section" after "subsection (f)" and substituted "such judicial officer" for "he", "before" for "prior to", "described in subsection (f)(1) of this section" for "described in (f)(1)", and "if such judicial officer" for "if the judge", in par. (1) inserted "of this section" after "subsection (f)(1)" in two places, and in pars. (2) and (3) inserted "of this section" after "paragraph (1)".

Subsec. (f). Pub. L. 99-646, § 72, in par. (1)(D) substituted "any felony if the person has been convicted of

two or more offenses" for "any felony committed after the person had been convicted of two or more prior offenses" and inserted ", or a combination of such offenses", in par. (2)(A) inserted "or" after "flee"; and in concluding provisions, inserted provision permitting the hearing to be reopened at any time before trial if the judicial officer finds that information exists that was unknown to the movant at the time of the hearing and that has a material bearing on whether there are conditions of release that will reasonably assure the appearance of the person as required and the safety of any other person and the community.

Pub. L. 99-646, § 55(c)(6), substituted "such person" for "the person" wherever appearing, in introductory provision inserted "of this section" after "subsection (c)" and struck out "in a case" after "community", in par. (1) inserted "in a case" and in subpar. (D) of par. (1) inserted "of this paragraph" in two places, in par. (2) substituted "upon" for "Upon" and inserted "in a case", and in concluding provisions, substituted "sua sponte" for "on his own motion", "whether such person is an addict" for "whether he is an addict", and "financially" for "he is financially", and struck out "for him" after "appointed" and "on his own behalf" after "witnesses".

Subsec. (g). Pub. L. 99-646, § 55(c)(7), in par. (3)(A) substituted "the person's" for "his", in par. (3)(B) substituted "the person" for "he", and in par. (4) inserted "of this section".

Subsec. (h). Pub. L. 99-646, § 55(a), (c)(8), in introductory provision substituted "under" for "pursuant to the provisions of" and inserted "of this section" and in par. (2)(C) struck out "the provisions of" before "sections 1503".

Subsec. (i). Pub. L. 99-646, § 55(a), (c)(9), in introductory provision substituted "under" for "pursuant to the provisions of" and inserted "of this section" and in par. (3) struck out "his" after "consultation with".

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by section 55(a) and (c) of Pub. L. 99-646 effective 30 days after Nov. 10, 1986, see section 55(j) of Pub. L. 99-646, set out as a note under section 3141 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3041, 3042, 3062, 3143, 3144, 3146, 3148, 3156 of this title; title 28 section 636.

§ 3143. Release or detention of a defendant pending sentence or appeal

(a) Release or detention pending sentence

The judicial officer shall order that a person who has been found guilty of an offense and who is waiting imposition or execution of sentence, other than a person for whom the applicable guideline promulgated pursuant to 28 U.S.C. 994 does not recommend a term of imprisonment, be detained, unless the judicial officer finds by clear and convincing evidence that the person is not likely to flee or pose a danger to the safety of any other person or the community if released under section 3142(b) or (c). If the judicial officer makes such a finding, such judicial officer shall order the release of the person in accordance with section 3142(b) or (c).

(b) Release or detention pending appeal by the defendant

The judicial officer shall order that a person who has been found guilty of an offense and sentenced to a term of imprisonment, and who has filed an appeal or a petition for a writ of certiorari, be detained, unless the judicial officer finds—

(1) by clear and convincing evidence that the person is not likely to flee or pose a danger to the safety of any other person or the community if released under section 3142(b) or (c) of this title; and

(2) that the appeal is not for purpose of delay and raises a substantial question of law or fact likely to result in reversal, an order for a new trial, or a sentence that does not include a term of imprisonment.

If the judicial officer makes such findings, such judicial officer shall order the release of the person in accordance with section 3142(b) or (c) of this title.

(c) Release or detention pending appeal by the Government

The judicial officer shall treat a defendant in a case in which an appeal has been taken by the United States under section 3731 of this title, in accordance with section 3142 of this title, unless the defendant is otherwise subject to a release or detention order. Except as provided in subsection (b) of this section, the judicial officer, in a case in which an appeal has been taken by the United States under section 3742, shall—

(1) if the person has been sentenced to a term of imprisonment, order that person detained; and

(2) in any other circumstance, release or detain the person under section 3142.

(Added Pub. L. 98-473, title II, § 203(a), Oct. 12, 1984, 98 Stat. 1981, and amended Pub. L. 98-473, title II, § 223(f), Oct. 12, 1984, 98 Stat. 2028; Pub. L. 99-646, §§ 51(a), (b), 55(a), (d), Nov. 10, 1986, 100 Stat. 3605-3607, 3609.)

EFFECTIVE DATE OF 1984 AMENDMENT; OFFENSES COMMITTED PRIOR TO NOV. 1, 1987

Section 235(a)(1) of Pub. L. 98-473, set out as an Effective Date note under section 3551 of this title, provided that the amendment of subsection (a) of this section is effective Nov. 1, 1987, and applicable only to offenses committed after the taking effect of such amendment. Prior to amendment, subsection (a) read as follows:

(a) Release or detention pending sentence

The judicial officer shall order that a person who has been found guilty of an offense and who is waiting imposition or execution of sentence, be detained, unless the judicial officer finds by clear and convincing evidence that the person is not likely to flee or pose a danger to the safety of any other person or the community if released under section 3142(b) or (c). If the judicial officer makes such a finding, such judicial officer shall order the release of the person in accordance with section 3142(b) or (c).

PRIOR PROVISIONS

A prior section 3143, acts June 25, 1948, ch. 645, 62 Stat. 821; June 22, 1966, Pub. L. 89-465, § 5(d), 80 Stat. 217, which related to additional bail, was repealed in the revision of this chapter by section 203(a) of Pub. L. 98-473.

AMENDMENTS

1986—Subsec. (a). Pub. L. 99-646, § 55(d)(1), (2), (4), substituted “under” for “pursuant to” and “such judicial officer” for “he” and struck out “the provisions of” after “in accordance with”.

Subsec. (b). Pub. L. 99-646, § 55(d)(1)-(4), in par. (1) substituted “under” for “pursuant to” and inserted “of this title” after “(c)”, and in concluding provision, substituted “such judicial officer” for “he”, struck out “the provisions of” after “in accordance with”, and inserted “of this title” after “(c)”.

Subsec. (b)(2). Pub. L. 99-646, § 51(a)(1), substituted “reversal,” for “reversal or” and inserted “, or a sentence that does not include a term of imprisonment”.

Subsec. (c). Pub. L. 99-646, § 51(a)(2), inserted provision that, except as provided in subsec. (b), the judicial officer, in a case in which an appeal has been taken by the United States under section 3742, if the person has been sentenced to a term of imprisonment, order that person detained, and in any other circumstance, release or detain the person under section 3142.

Pub. L. 99-646, § 55(a), (d)(2), (5), substituted “under section 3731” for “pursuant to the provisions of section 3731” and “with section 3142 of this title” for “with the provisions of section 3142”.

Pub. L. 99-646, § 51(b), provided that the amendment of subsec. (c) by section 223(f)(2) of Pub. L. 98-473 shall not take effect. See 1984 Amendment note below.

1984—Subsec. (a). Pub. L. 98-473, § 223(f)(1), inserted provisions relating to applicable guideline under section 994 of title 28.

Subsec. (c). Pub. L. 98-473, § 223(f)(2), which would have added a final sentence requiring a judge to treat a defendant in a case in which an appeal had been taken by the United States pursuant to the provisions of section 3742 in accordance with the provisions of (1) subsection (a) if the person had been sentenced to a term of imprisonment; or (2) section 3142 if the person had not been sentenced to a term of imprisonment did not become effective pursuant to section 51(b) of Pub. L. 99-646. See 1986 Amendment note above.

EFFECTIVE DATE OF 1986 AMENDMENT

Section 51(c) of Pub. L. 99-646 provided that: “The amendment made by subsection (a)(2) [amending this section] shall take effect on the date of the taking of effect of section 3742 of title 18, United States Code [Nov. 1, 1987].”

Amendment by section 55(a), (d) of Pub. L. 99-646 effective 30 days after Nov. 10, 1986, see section 55(j) of Pub. L. 99-646, set out as a note under section 3141 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3156 of this title.

§ 3144. Release or detention of a material witness

If it appears from an affidavit filed by a party that the testimony of a person is material in a criminal proceeding, and if it is shown that it may become impracticable to secure the presence of the person by subpoena, a judicial officer may order the arrest of the person and treat the person in accordance with the provisions of section 3142 of this title. No material witness may be detained because of inability to comply with any condition of release if the testimony of such witness can adequately be secured by deposition, and if further detention is not necessary to prevent a failure of justice. Release of a material witness may be delayed for a reasonable period of time until the deposition of the witness can be taken pursuant to the Federal Rules of Criminal Procedure.

(Added Pub. L. 98-473, title II, § 203(a), Oct. 12, 1984, 98 Stat. 1982, and amended Pub. L. 99-646, § 55(e), Nov. 10, 1986, 100 Stat. 3609.)

REFERENCES IN TEXT

The Federal Rules of Criminal Procedure, referred to in text, are set out in the Appendix to this title.

PRIOR PROVISIONS

A prior section 3144, act June 25, 1948, ch. 645, 62 Stat. 821, which related to cases removed from State courts, was repealed in the revision of this chapter by section 203(a) of Pub. L. 98-473.

AMENDMENTS

1986—Pub. L. 99-646 substituted “subpoena” for “subpena” and inserted “of this title”.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-646 effective 30 days after Nov. 10, 1986, see section 55(j) of Pub. L. 99-646, set out as a note under section 3141 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3156 of this title; title 28 section 1821.

§ 3145. Review and appeal of a release or detention order

(a) Review of a release order

If a person is ordered released by a magistrate, or by a person other than a judge of a court having original jurisdiction over the offense and other than a Federal appellate court—

(1) the attorney for the Government may file, with the court having original jurisdiction over the offense, a motion for revocation of the order or amendment of the conditions of release; and

(2) the person may file, with the court having original jurisdiction over the offense, a motion for amendment of the conditions of release.

The motion shall be determined promptly.

(b) Review of a detention order

If a person is ordered detained by a magistrate, or by a person other than a judge of a court having original jurisdiction over the offense and other than a Federal appellate court, the person may file, with the court having original jurisdiction over the offense, a motion for revocation or amendment of the order. The motion shall be determined promptly.

(c) Appeal from a release or detention order

An appeal from a release or detention order, or from a decision denying revocation or amendment of such an order, is governed by the provisions of section 1291 of title 28 and section 3731 of this title. The appeal shall be determined promptly.

(Added Pub. L. 98-473, title II, § 203(a), Oct. 12, 1984, 98 Stat. 1982.)

PRIOR PROVISIONS

A prior section 3145, act June 25, 1948, ch. 645, 62 Stat. 821, which provided cross references to the Federal Rules of Criminal Procedure for rules covering

parties and witnesses, was repealed in the revision of this chapter by section 203(a) of Pub. L. 98-473.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3154, 3156 of this title.

§ 3146. Penalty for failure to appear

(a) Offense

Whoever, having been released under this chapter knowingly—

- (1) fails to appear before a court as required by the conditions of release; or
- (2) fails to surrender for service of sentence pursuant to a court order;

shall be punished as provided in subsection (b) of this section.

(b) Punishment

(1) The punishment for an offense under this section is—

(A) if the person was released in connection with a charge of, or while awaiting sentence, surrender for service of sentence, or appeal or certiorari after conviction for—

(i) an offense punishable by death, life imprisonment, or imprisonment for a term of 15 years or more, a fine under this title or imprisonment for not more than ten years, or both;

(ii) an offense punishable by imprisonment for a term of five years or more, a fine under this title or imprisonment for not more than five years, or both;

(iii) any other felony, a fine under this title or imprisonment for not more than two years, or both; or

(iv) a misdemeanor, a fine under this chapter or imprisonment for not more than one year, or both; and

(B) if the person was released for appearance as a material witness, a fine under this chapter or imprisonment for not more than one year, or both.

(2) A term of imprisonment imposed under this section shall be consecutive to the sentence of imprisonment for any other offense.

(c) Affirmative defense

It is an affirmative defense to a prosecution under this section that uncontrollable circumstances prevented the person from appearing or surrendering, and that the person did not contribute to the creation of such circumstances in reckless disregard of the requirement to appear or surrender, and that the person appeared or surrendered as soon as such circumstances ceased to exist.

(d) Declaration of forfeiture

If a person fails to appear before a court as required, and the person executed an appearance bond pursuant to section 3142(b) of this title or is subject to the release condition set forth in clause (xi) or (xii) of section 3142(c)(1)(B) of this title, the judicial officer may, regardless of whether the person has been charged with an offense under this section, declare any property designated pursuant to that section to be forfeited to the United States.

(Added Pub. L. 98-473, title II, § 203(a), Oct. 12, 1984, 98 Stat. 1982, and amended Pub. L. 99-646, § 55(f), Nov. 10, 1986, 100 Stat. 3609.)

PRIOR PROVISIONS

A prior section 3146, added Pub. L. 89-465, § 3(a), June 22, 1966, 80 Stat. 214, and amended Pub. L. 97-291, § 8, Oct. 12, 1982, 96 Stat. 1257, which related to release in noncapital cases prior to trial, was repealed in the revision of this chapter by section 203(a) of Pub. L. 98-473.

Another prior section 3146, act Aug. 20, 1954, ch. 772, § 1, 68 Stat. 747, which prescribed penalties for jumping bail, was eliminated by Pub. L. 89-465, § 3(a), June 22, 1966, 80 Stat. 214, and covered by former sections 3150 and 3151 of this title.

AMENDMENTS

1986—Subsec. (a). Pub. L. 99-646, § 55(f)(1), added subsec. (a) and struck out former subsec. (a) which read as follows: "A person commits an offense if, after having been released pursuant to this chapter—

"(1) he knowingly fails to appear before a court as required by the conditions of his release; or

"(2) he knowingly fails to surrender for service of sentence pursuant to a court order."

Subsec. (b). Pub. L. 99-646, § 55(f)(1), added subsec. (b) and struck out former subsec. (b) which was captioned "Grading", and which read as follows: "If the person was released—

"(1) in connection with a charge of, or while awaiting sentence, surrender for service of sentence, or appeal or certiorari after conviction, for—

"(A) an offense punishable by death, life imprisonment, or imprisonment for a term of fifteen years or more, he shall be fined not more than \$25,000 or imprisoned for not more than ten years, or both;

"(B) an offense punishable by imprisonment for a term of five or more years, but less than fifteen years, he shall be fined not more than \$10,000 or imprisoned for not more than five years, or both;

"(C) any other felony, he shall be fined not more than \$5,000 or imprisoned for not more than two years, or both; or

"(D) a misdemeanor, he shall be fined not more than \$2,000 or imprisoned for not more than one year, or both; or

"(2) for appearance as a material witness, he shall be fined not more than \$1,000 or imprisoned for not more than one year, or both.

A term of imprisonment imposed pursuant to this section shall be consecutive to the sentence of imprisonment for any other offense."

Subsec. (c). Pub. L. 99-646, § 55(f)(2), substituted "requirement to appear" for "requirement that he appear" and "the person appeared" for "he appeared".

Subsec. (d). Pub. L. 99-646, § 55(f)(3), inserted "of this title" after "3142(b)" and substituted "clause (xi) or (xii) of section 3142(c)(1)(B) of this title" for "section 3142(c)(2)(K) or (c)(2)(L)".

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-646 effective 30 days after Nov. 10, 1986, see section 55(j) of Pub. L. 99-646, set out as a note under section 3141 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2516, 3156 of this title; title 28 section 994; title 42 section 10601.

§ 3147. Penalty for an offense committed while on release

A person convicted of an offense committed while released under this chapter shall be sen-

tenced, in addition to the sentence prescribed for the offense, to—

- (1) a term of imprisonment of not more than ten years if the offense is a felony; or
- (2) a term of imprisonment of not more than one year if the offense is a misdemeanor.

A term of imprisonment imposed under this section shall be consecutive to any other sentence of imprisonment.

(Added Pub. L. 98-473, title II, §§ 203(a), 223(g), Oct. 12, 1984, 98 Stat. 1983, 2028, and amended Pub. L. 99-646, § 55(g), Nov. 10, 1986, 100 Stat. 3610.)

EFFECTIVE DATE OF 1984 AMENDMENT; OFFENSES COMMITTED PRIOR TO NOV. 1, 1987

Section 235(a)(1) of Pub. L. 98-473, set out as an Effective Date note under section 3551 of this title, provided that the amendment of paragraphs (1) and (2) of this section is effective Nov. 1, 1987, and applicable only to offenses committed after the taking effect of such amendment. Prior to amendment, paragraphs (1) and (2) read as follows:

- (1) a term of imprisonment of not less than two years and not more than ten years if the offense is a felony; or
- (2) a term of imprisonment of not less than ninety days and not more than one year if the offense is a misdemeanor.

PRIOR PROVISIONS

A prior section 3147, added Pub. L. 89-465, § 3(a), June 22, 1966, 80 Stat. 215, which related to appeals from conditions of release, was repealed in the revision of this chapter by section 203(a) of Pub. L. 98-473.

AMENDMENTS

1986—Pub. L. 99-646 substituted “under” for “pursuant to” in two places and “for the offense,” for “for the offense”.

1984—Pub. L. 98-473 struck out “not less than two years and” after “imprisonment of” in par. (1), and “not less than ninety days and” after “imprisonment of” in par. (2).

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-646 effective 30 days after Nov. 10, 1986, see section 55(j) of Pub. L. 99-646, set out as a note under section 3141 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3156 of this title; title 28 section 994.

§ 3148. Sanctions for violation of a release condition

(a) Available sanctions

A person who has been released under section 3142 of this title, and who has violated a condition of his release, is subject to a revocation of release, an order of detention, and a prosecution for contempt of court.

(b) Revocation of release

The attorney for the Government may initiate a proceeding for revocation of an order of release by filing a motion with the district court. A judicial officer may issue a warrant for the arrest of a person charged with violating a condition of release, and the person shall be

brought before a judicial officer in the district in which such person's arrest was ordered for a proceeding in accordance with this section. To the extent practicable, a person charged with violating the condition of release that such person not commit a Federal, State, or local crime during the period of release, shall be brought before the judicial officer who ordered the release and whose order is alleged to have been violated. The judicial officer shall enter an order of revocation and detention if, after a hearing, the judicial officer—

(1) finds that there is—

(A) probable cause to believe that the person has committed a Federal, State, or local crime while on release; or

(B) clear and convincing evidence that the person has violated any other condition of release; and

(2) finds that—

(A) based on the factors set forth in section 3142(g) of this title, there is no condition or combination of conditions of release that will assure that the person will not flee or pose a danger to the safety of any other person or the community; or

(B) the person is unlikely to abide by any condition or combination of conditions of release.

If there is probable cause to believe that, while on release, the person committed a Federal, State, or local felony, a rebuttable presumption arises that no condition or combination of conditions will assure that the person will not pose a danger to the safety of any other person or the community. If the judicial officer finds that there are conditions of release that will assure that the person will not flee or pose a danger to the safety of any other person or the community, and that the person will abide by such conditions, the judicial officer shall treat the person in accordance with the provisions of section 3142 of this title and may amend the conditions of release accordingly.

(c) Prosecution for contempt

The judicial officer may commence a prosecution for contempt, under section 401 of this title, if the person has violated a condition of release.

(Added Pub. L. 98-473, title II, § 203(a), Oct. 12, 1984, 98 Stat. 1983, and amended Pub. L. 99-646, § 55(a), (h), Nov. 10, 1986, 100 Stat. 3607, 3610.)

PRIOR PROVISIONS

A prior section 3148, added Pub. L. 89-465, § 3(a), June 22, 1966, 80 Stat. 215, and amended Pub. L. 91-452, title X, § 1002, Oct. 12, 1970, 84 Stat. 952, which related to release in capital cases or after conviction, was repealed in the revision of this chapter by section 203(a) of Pub. L. 98-473.

AMENDMENTS

1986—Subsec. (a). Pub. L. 99-646, § 55(a), (h)(1), substituted “under section 3142 of this title” for “pursuant to the provisions of section 3142”.

Subsec. (b). Pub. L. 99-646, § 55(h)(2), in introductory provision, substituted “such person's arrest” for “his arrest”, “condition of release that such person not commit” for “condition of his release that he not

commit", and "period of release," for "period of release", in par. (1)(B) substituted "condition of release" for "condition of his release", in par. (2)(A) inserted "of this title" after "section 3142(g)", and in concluding provision, substituted "the judicial officer shall" for "he shall" and inserted "of this title" after "section 3142".

Subsec. (c). Pub. L. 99-646, § 55(a), (h)(3), substituted "judicial officer" for "judge", "under section 401 of this title" for "pursuant to the provisions of section 401", and "condition of release" for "condition of his release".

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-646 effective 30 days after Nov. 10, 1986, see section 55(j) of Pub. L. 99-646, set out as a note under section 3141 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3149, 3156 of this title.

§ 3149. Surrender of an offender by a surety

A person charged with an offense, who is released upon the execution of an appearance bond with a surety, may be arrested by the surety, and if so arrested, shall be delivered promptly to a United States marshal and brought before a judicial officer. The judicial officer shall determine in accordance with the provisions of section 3148(b) whether to revoke the release of the person, and may absolve the surety of responsibility to pay all or part of the bond in accordance with the provisions of Rule 46 of the Federal Rules of Criminal Procedure. The person so committed shall be held in official detention until released pursuant to this chapter or another provision of law.

(Added Pub. L. 98-473, title II, § 203(a), Oct. 12, 1984, 98 Stat. 1984.)

PRIOR PROVISIONS

A prior section 3149, added Pub. L. 89-465, § 3(a), June 22, 1966, 80 Stat. 216, which related to release of material witnesses, and repealed in the revision of this chapter by section 203(a) of Pub. L. 98-473.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3156 of this title; title 28 section 1821.

§ 3150. Applicability to a case removed from a State court

The provisions of this chapter apply to a criminal case removed to a Federal court from a State court.

(Added Pub. L. 98-473, title II, § 203(a), Oct. 12, 1984, 98 Stat. 1984.)

PRIOR PROVISIONS

A prior section 3150, added Pub. L. 89-465, § 3(a), June 22, 1966, 80 Stat. 216, which related to penalties for failure to appear, was repealed in the revision of this chapter by section 203(a) of Pub. L. 98-473.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3156 of this title.

[§§ 3150a, 3151. Repealed. Pub. L. 98-473, title II, § 203(a), Oct. 12, 1984, 98 Stat. 1976]

Section 3150a, added Pub. L. 97-258, § 2(d)(3)(B), Sept. 13, 1982, 96 Stat. 1059, and amended Pub. L.

98-473, title II, § 1410, Oct. 12, 1984, 98 Stat. 2178, related to refund of forfeited bail. Section 1410 of Pub. L. 98-473 was subsequently repealed by Pub. L. 99-646, § 49, Nov. 10, 1986, 100 Stat. 3605.

Section 3151, added Pub. L. 89-465, § 3(a), June 22, 1966, 80 Stat. 216, related to contempt power of courts.

§ 3154. Functions and powers relating to pretrial services

Pretrial services functions shall include the following:

(1) Collect, verify, and report to the judicial officer, prior to the pretrial release hearing, information pertaining to the pretrial release of each individual charged with an offense, including information relating to any danger that the release of such person may pose to any other person or the community, and, where appropriate, include a recommendation as to whether such individual should be released or detained and, if release is recommended, recommend appropriate conditions of release.³

(2) Review and modify the reports and recommendations specified in paragraph (1) of this section for persons seeking release pursuant to section 3145 of this chapter.

[See main edition for text of (3) to (12)]

(As amended Pub. L. 98-473, title II, § 203(b), Oct. 12, 1984, 98 Stat. 1984.)

AMENDMENTS

1984—Par. (1). Pub. L. 98-473, § 203(b)(1), which directed the amendment of par. (1), by striking out "and recommend appropriate release conditions for each such person" and inserting in lieu thereof "and, where appropriate, include a recommendation as to whether such individual should be released or detained and, if release is recommended, recommend appropriate conditions of release" was executed by substituting the quoted phrase for "and recommend appropriate release conditions for such individual" as the probable intent of Congress.

Par. (2). Pub. L. 98-473, § 203(b)(2), substituted "section 3145" for "section 3146(e) or section 3147".

§ 3156. Definitions

(a) As used in sections 3141-3150 of this chapter—

(1) the term "judicial officer" means, unless otherwise indicated, any person or court authorized pursuant to section 3041 of this title, or the Federal Rules of Criminal Procedure, to detain or release a person before trial or sentencing or pending appeal in a court of the United States, and any judge of the Superior Court of the District of Columbia;

(2) the term "offense" means any criminal offense, other than an offense triable by court-martial, military commission, provost court, or other military tribunal, which is in violation of an Act of Congress and is triable in any court established by Act of Congress;

(3) the term "felony" means an offense punishable by a maximum term of imprisonment of more than one year; and

(4) the term "crime of violence" means—

³See 1984 Amendment note below.

(A) an offense that has as an element of the offense the use, attempted use, or threatened use of physical force against the person or property of another; or

(B) any other offense that is a felony and that, by its nature, involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense.

(b) As used in sections 3152-3155 of this chapter—

(1) the term “judicial officer” means, unless otherwise indicated, any person or court authorized pursuant to section 3041 of this title, or the Federal Rules of Criminal Procedure, to detain or release a person before trial or sentencing or pending appeal in a court of the United States, and

(2) the term “offense” means any Federal criminal offense which is in violation of any Act of Congress and is triable by any court established by Act of Congress (other than a Class B or C misdemeanor or an infraction, or an offense triable by court-martial, military commission, provost court, or other military tribunal).

(As amended Pub. L. 98-473, title II, §§ 203(c), 223(h), Oct. 12, 1984, 98 Stat. 1985, 2029; Pub. L. 99-646, § 55(i), Nov. 10, 1986, 100 Stat. 3610.)

EFFECTIVE DATE OF 1984 AMENDMENT; OFFENSES COMMITTED PRIOR TO NOV. 1, 1987

Section 235(a)(1) of Pub. L. 98-473, set out as an Effective Date note under section 3551 of this title, provided that the amendment of subsection (b)(2) of this section is effective Nov. 1, 1987, and applicable only to offenses committed after the taking effect of such amendment. Prior to amendment, subsection (b)(2) read as follows:

(2) the term “offense” means any Federal criminal offense which is in violation of any Act of Congress and is triable by any court established by Act of Congress (other than a petty offense as defined in section 1(3) of this title, or an offense triable by court-martial, military commission, provost court, or other military tribunal).

AMENDMENTS

1986—Subsec. (a). Pub. L. 99-646 substituted “the term” for “The term” in pars. (1) to (4) and struck out “and” after “Congress;” in par. (2).

1984—Subsec. (a). Pub. L. 98-473, § 203(c)(1), substituted “3141” for “3146” in provision preceding par. (1).

Subsec. (a)(1). Pub. L. 98-473, § 203(c)(2), substituted “to detain or release” for “to bail or otherwise release” and struck out “and” after “District of Columbia;”.

Subsec. (a)(3), (4). Pub. L. 98-473, § 203(c)(3), (4), added pars. (3) and (4).

Subsec. (b)(1). Pub. L. 98-473, § 203(c)(5), substituted “to detain or release” for “to bail or otherwise release”.

Subsec. (b)(2). Pub. L. 98-473, § 223(h), substituted “Class B or C misdemeanor or an infraction” for “petty offense as defined in section 1(3) of this title”.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-646 effective 30 days after Nov. 10, 1986, see section 55(j) of Pub. L. 99-646, set out as a note under section 3141 of this title.

CHAPTER 208—SPEEDY TRIAL

§ 3161. Time limits and exclusions

[See main edition for text of (a) to (g)]

(h) The following periods of delay shall be excluded in computing the time within which an information or an indictment must be filed, or in computing the time within which the trial of any such offense must commence:

[See main edition for text of (1) to (7)]

(8) [See main edition for text of (A) and (B)]

(C) No continuance under subparagraph (A) of this paragraph shall be granted because of general congestion of the court's calendar, or lack of diligent preparation or failure to obtain available witnesses on the part of the attorney for the Government.

(9) Any period of delay, not to exceed one year, ordered by a district court upon an application of a party and a finding by a preponderance of the evidence that an official request, as defined in section 3292 of this title, has been made for evidence of any such offense and that it reasonably appears, or reasonably appeared at the time the request was made, that such evidence is, or was, in such foreign country.

[See main edition for text of (i) and (j)]

(As amended Pub. L. 98-473, title II, § 1219, Oct. 12, 1984, 98 Stat. 2167.)

AMENDMENTS

1984—Subsec. (h)(8)(C). Pub. L. 98-473, § 1219(1), substituted “subparagraph (A) of this paragraph” for “paragraph (8)(A) of this subsection”.

Subsec. (h)(9). Pub. L. 98-473, § 1219(2), added par. (9).

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-473 effective 30 days after Oct. 12, 1984, see section 1220 of Pub. L. 98-473, set out as an Effective Date note under section 3505 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3162, 3163, 3164, 3165, 3166, 3167, 3174 of this title.

§ 3172. Definitions

As used in this chapter—

[See main edition for text of (1)]

(2) the term “offense” means any Federal criminal offense which is in violation of any Act of Congress and is triable by any court established by Act of Congress (other than a Class B or C misdemeanor or an infraction, or an offense triable by court-martial, military commission, provost court, or other military tribunal).

(As amended Pub. L. 98-473, title II, § 223(i), Oct. 12, 1984, 98 Stat. 2029.)